

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GIOVANNI REID,	:	CIVIL ACTION
Petitioner	:	
	:	
V	:	NO. 2:01-cv-02385
	:	(prior habeas action)
	:	
DONALD VAUGHN, et al.,	:	
<u>Respondents</u>	:	

**MOTION REQUESTING LEAVE TO FILE AMENDMENT AND  
PERMISSION TO EXPAND FEDERAL RECORD**

**FILED**

SEP 04 2015

MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

TO THE HONORABLE DISTRICT JUDGE STEWART DALZELL:

Petitioner, Giovanni Reid, acting pro se, hereby files this motion requesting leave to file an amendment and permission to expand his federal record, and in support thereof, the following is respectfully stated:

1. On June 14, 2001, Petitioner filed his initial writ of habeas corpus petition, docketed at 2:01-cv-02385.

2. On August 28, 2003, this Court denied habeas relief, but issued a certificate of appealability. Reid v. Vaughn, 279 F.Supp.2d. 636 (E.D.Pa. 2003).

3. Petitioner filed a timely appeal docketed at No. 03-3824, and on September 23, 2004, the Third Circuit Court of Appeals affirmed this Court's August 28, 2003 Order in a non-precedential opinion.

4. On February 6, 2006, Petitioner became aware of a new piece of evidence strongly suggestive of his innocence. This new

evidence was not available to Petitioner for his 2001-2004 habeas proceedings. However, the evidence at issue directly relates back to the actual innocence claims that were initially raised. For brief factual details, see Petitioner's Motion to Relate Back to Original Habeas Action, dated 9/1/15 - pp. 4-7, para. 10-15.

5. Pursuant to F.R.C.P., Rule 15(a)(1) "a party may amend its pleading only with the opposing party's written consent or the court's leave," and the court "should freely give leave when justice so requires." See Mayle v. Felix, 545 U.S. at 655 (2005) ("The Civil Rule governing pleading amendments, Federal Rule of Civil Procedure 15, made applicable to habeas proceedings by Habeas Corpus Rule 12, allowing pleading amendments with 'leave of court' any time during a proceeding, see F.R.C.P., Rule 15(a)"); Miller v. Laird, 464 F.2d 533, 534 (9th Cir. 1972) (applying F.R.C.P. 15(c)'s liberal "relation back" doctrine to habeas corpus amendment); also see Holiday v. Johnson, 313 U.S. 342, 350 (1941); Riley v. Taylor, 62 F.3d 86, 90, 92 (3d Cir. 1995)(district court's denial of leave to amend habeas corpus petition violated applicable F.R.C.P. 15(a) standard of "freely giv[ing]" leave to amend).

6. In the instant matter, Petitioner requires amendment due to the new evidence he has acquired since the initial filing of his June, 2001 writ of habeas corpus petition.

7. Given this factor, the new evidence at issue is not contained in Petitioner's record, therefore, he also request the permission to expand his federal record whereby this evidence

can be included.

8. Under Habeas Rule 7(a), governing § 2254 it provides authority for the expansion of the record to add any "materials relating to the petition." See Schlup v. Delo, 513 U.S. 298, 308-10 & n. 18 (1995)(approvingly discussing petitioner's request to "supplement the record" -- and thereby "buttress his claims of innocence" in support of "manifest miscarriage of justice" exception to successive petition defense -- by expanding record to include "affidavits from inmates [and others] who stated that they had witnessed the event and that [petitioner] had not been present").

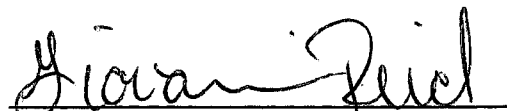
9. Also, Habeas Rule 7 is a "simplifying procedure[]" designed to "minimize the burden to all concerned" of the fact development process. Rule 7 pursues this goal in two ways. First, it permits the court to receive all or at least some of the evidence relevant to the disposition of the petition without a formal hearing -- even, possibly, in situations in which a hearing would be inappropriate or impermissible. Second, it relaxes the rules of evidence by giving the court discretion to admit virtually all evidence that (1) "relat[es] to the petition," (2) was in existence prior to the filing of the petition, or is tangible or "real" evidence that was not created in anticipation of litigation, or is comprised of or supported by a sworn affidavit, and (3) is not already part of the record of prior proceedings in the case. See Rule 5(c) of the Rules Governing § 2254 Cases in the United States District Court

(2010)(court, on party's motion or sua sponte, may make any portion of the record of state court proceedings part of federal record).

10. Here, Petitioner seeks permission to expand his federal record to include Wayne Richman's initial e-mail and deposition, dated February 6, 2006 and March 13, 2006, and the transcripts from his state evidentiary hearing, dated November 7, 2012 - pp. 83-84, 103, 113-114, 120, attached as EXHIBITS B and C to his Motion to Relate back to Original Habeas Action, dated September 1, 2015. Each of these documents are highly relevant, as they directly relate to Petitioner's actual innocence claims.

WHEREFORE, Petitioner, Giovanni Reid, respectfully request this Court to grant leave to file an amendment and permission to expand his federal record to include the evidence/materials attached as EXHIBITS B and C to his motion to relate back to his original habeas action.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Giovanni Reid", is written over a horizontal line.

GIOVANNI REID, Petitioner  
Inst. #: CA-0466  
P.O. Box 244  
Graterford, PA 19426

Dated: September 1, 2015

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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Petitioner	:	
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V	:	NO. 2:01-cv-02385
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DONALD VAUGHN, et al.,	:	
Respondents	:	

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy  
of the foregoing MOTION upon the following person(s) and in  
the manner of service as indicated below:

Thomas Dolgenos, Esquire  
Chief, Federal Court Litigation Unit  
Office of the D.A.'s Office  
Three South Penn Square  
Philadelphia, PA 19107-3499  
(via U.S. Mail, First-Class,  
Postage Prepaid)

  
GIOVANNI REID, Petitioner

Dated: September 1, 2015

PA DEPARTMENT OF CORRECTIONS  
INMATE MAIL

Name: GIOVANNI REID

Number: CA-0466

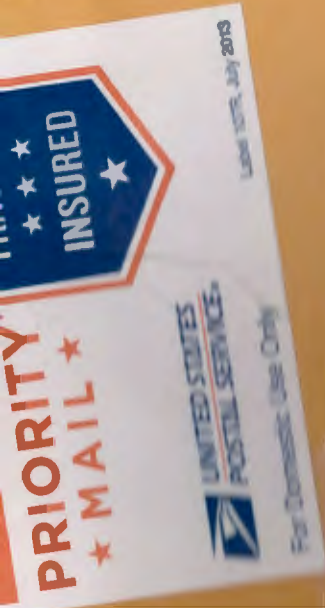
Box 244

Graterford, PA 19426-0244

LEGAL MAIL

Mr. Michael E. Kunz, Clerk  
United States District Court  
For The Eastern District  
601 Market Street, Room 2609  
Philadelphia, PA 19106-1797

U.S.M.S.  
X-RAY



Two(2) Envelopes, 4 Copies of each Document

GIOVANNI Reid, CA0466  
P.O. BOX 244  
Conatserford, PA 19426-0244

Mr. Michael E. Kunz, Cle  
U.S. District Court  
601 Market Street, Rm. 2  
Phila, PA 19106-1797